



UNITED STATES PATENT AND TRADEMARK OFFICE

[Signature]
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|---------------------------------|---------------------|------------------|
| 09/520,576 | 03/08/2000 | Roland Vincent St. John Killick | 03628-0450 | 1427 |

29052 7590 06/20/2003

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

EXAMINER

KEMPER, MELANIE A

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/520,576

Applicant(s)

ST. JOHN KILICK, ROLAND
VINCENT

Examiner

M Kemper

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 March 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 34-49 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 34-49 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3-31-03 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 34-39, 42-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens, patent number 6,327,570 in view of "What Grocers Want in Electronic Marketing Programs" POS News, v.7, n.13, 5/91.

Stevens teaches a system for analyzing consumer data comprising: a computer program for analyzing consumer data (col. 8, lines 5-15); a terminal device (col. 7, lines 35-55); and a consumer data acquisition device that stores consumer data (col. 6, lines 1-15, col. 7, lines 25-35); wherein the terminal device is operable to selectively extract at least a portion of the consumer data stored on the consumer data device for analysis by the computer program (col. 19, lines 1-40, col. 10, lines 35-45); the terminal device is operable to transmit consumer data to the consumer device (col. 7, lines 35-60, col. 8, lines 50-65); the consumer data acquisition device can at least be a barcode reader with memory, a digital computer, or a personal digital assistant (col. 8, line 50 – col. 10, line

30); the terminal is positioned local to a point of sale terminal or a network terminal (col. 7, lines 35-45, col. 17, lines 5-45, col. 18, lines 5-15); the program resides in part at the consumer acquisition device (col. 10, lines 25-60) and a data collection center operable to identify consumer data for analysis where the computer program resides at least in part (col. 8, lines 1-35).

The article teaches selectively extracting consumer data for analysis and inferring information from the database (p. 1-2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have selectively extracted information where the terminal cannot extract all of the customer data and inferred marketing information as taught in the article in the system of Stevens since this would have avoided the problems of gathering too much information as described in the article. It also would have been obvious to have cleared at least a portion of the consumer data from the consumer data device since this would have been adopted for the intended use of freeing limited memory of the user card for continued use of the card. It also would have been obvious to one having ordinary skill in the art to have modified the consumer data since this would have been adopted for the intended use of receiving the most up to date promotions as described in Stevens.

4. Claims 34-39, 42-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottlich et al., patent number 6,024,288 in view of "What Grocers Want in Electronic Marketing Programs" POS News, v.7, n.13, 5/91.

Gottlich teaches a system for analyzing consumer data comprising: a computer program for analyzing consumer data (col. 8, lines 45-60, col. 11, lines 35-65); a

Art Unit: 3622

terminal device (PRW); and a consumer data acquisition device that stores consumer data (user card, col. 11, lines 55-65); wherein the terminal device is operable to selectively extract at least a portion of the consumer data stored on the consumer data device for analysis by the computer program (col. 11, line 50 – col. 12, line 15, col. 12, line 50 – col. 13, line 15); the terminal device is operable to transmit consumer data to the consumer device (col. 8, lines 45-55); the consumer data acquisition device is a magnetic medium (col. 6, lines 60-65, col. 7, lines 10-15); the terminal is positioned local to a point of sale terminal or a network terminal (col. 11, lines 20-50); the terminal device modifies consumer data from a memory of consumer data acquisition device (col. 13, lines 5-15); the program resides in part at the terminal device (col. 12, lines 40-67, col. 14, lines 20-40) and a data collection center operable to identify consumer data for analysis where the computer program resides at least in part (col. 11, line 45- col. 12, line 15).

The article teaches selectively extracting consumer data for analysis and inferring information from the database (p. 1-2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have selectively extracted information where the terminal cannot extract all of the customer data and inferred marketing information as taught in the article in the system of Gottlich since this would have avoided the problems of gathering too much information as described in the article. It also would have been obvious to have cleared at least a portion of the consumer data from the consumer data device since this would have been adopted for the intended use of freeing limited memory of the user card for continued use of the

card similar to clearing the memory of the PRW of Gottlich (col. 11, lines 60-65, col. 13, lines 5-10).

5. Claims 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottlich et al., or Stevens, in view of "What Grocers Want" as above, further in view of Strauss, Jr et al., patent number 5,727,196.

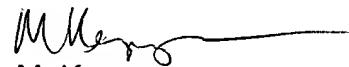
Strauss teaches a program to analyze consumer data further comprising filtering the data (col. 2, line 60 – col. 3, line 10, col. 4, lines 25-35, col. 6, line 15 – col. 25). It would have been obvious to have filtered the consumer data and to have extracted a portion of the filtered data as in Strauss since filtering the data would have limited the amount of information as desired in the article while providing optimized queries as described in Strauss.

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Kemper whose telephone number is 703-305-9589. The examiner can normally be reached on M-F (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



M Kemper
Primary Examiner
Art Unit 3622

MK
June 16, 2003